

HOOPA CONCERNS REGARDING ONGOING KLAMATH AND TRINITY MISMANAGEMENT

The Tribe has continuously stated that mismanagement of the Klamath, Trinity and Trinity-related CVP operations will impede the legal and trust mandates to restore the Trinity River fishery to pre-dam levels. Recent developments have demonstrated that the Tribe's concerns are real and that the state of the Klamath/Trinity River fishery resources is worse today and requires annual Trinity water releases to prevent more fish kills. These problems are not new. Examples of a few are as follows:

- **Trinity ROD Failures.** The Trinity ROD was signed on December 19, 2000. CVP water contractors immediately sued. In 2004, the Court of Appeals ruled that "restoration of the Trinity fishery resources is unlawfully long overdue". Despite this court ruling, BOR only provided \$7 million annual of the \$16.4 million required in the ROD, which further delayed addressing the problems.
- **Hatchery/Natural Stock Balancing.** Since coho salmon were listed in 1997, the Tribe has pressed the Federal agencies to develop a natural and hatchery stock integrated management plan for the Trinity River. The federal response was to seek a Solicitor's Opinion that the TMC is not required to consider TRH issues. However, the Opinion stated that the Secretary, not the TMC, has authority to address it. After years of indecision, the Environmental Protection Information Center (EPIC) filed its ESA case in 2013. The Tribe intervened and throughout the Settlement discussions demanded that among other things, the Trinity water diversions to the CVP be reduced. Despite continued finger pointing, resolution of the underlying issues remain blocked by Federal agencies who are unwilling to address the real issues that impact recovery/restoration of ESA stocks. The Tribe's selective harvest weir is part of this settlement. Unfortunately, the main focus of Federal agencies and State has been on culling (killing) of 40% of the coho and 36% of steelhead populations at TRH. It is clear that simply limiting TRH production, not restoring habitat and at the same time maximizing CVP water diversions is a violation of TRD and tribal trust laws.
- **Federal Conflicts of Interest.** The Congressional legislative record is clear that TRD diversions are the primary source of water for the San Luis Unit. But in order to address its own conflicted priorities, the Department of the Interior has negotiated a San Luis Unit water deal that will provide 895,000 af of water, mostly from Trinity, and write off \$375,000,000 of capital repayment for San Luis water contractors. The Trinity River has not been protected by this deal and instead it paves the road for anti-Trinity lawsuits in the future.
- **Klamath Water Deals.** Water allocations issues in the Upper Klamath River have resulted in at least 6 Trinity supplemental water releases since 2002 to prevent fish kills in the Lower Klamath. There has been a need for annual releases in more recent years. Each of these fall releases inundates Hoopa fishing season with additional water, which results in diminishing Hoopa tribal harvest. Since around 2006, the Departments of the Interior (BOR and FWS) and Commerce (NMFS) supported the development of the Klamath Basin Restoration Agreement (KBRA). Throughout the development of the KBRA, the Tribe submitted information showing that the Klamath water allocation agreement was going caused serious problems for the Klamath/Trinity fishery resources. The tribe's information was set aside without consideration. In March, 2010, the NMFS was faced with another crisis coho ESA situation, which let to NFMS simply allowing more coho salmon to be killed without any kind of scientific analysis being done.